

REMARKS

Applicant has reviewed the Office Action of 27 February 2003. Applicant herein responds.

Initially, Applicant re-labels element 10 in Figure 1 as a switch to conform the drawings to the specification. New formal drawings will be submitted upon claim allowance.

Before addressing the merits of the rest of the rejection, Applicant herein provides a brief summary of the present invention to provide context for the remainder of the remarks. The present invention is designed to facilitate the use of standard network administration standards such as those outlined at page 1, lines 29-35 of the specification. These standards are dependent on X.25 messaging protocol and cannot normally be used on a packet network. The present invention facilitates use of these standards on a packet network by establishing a connection between a computing device and the telephony switch **over the packet switched data network**. The telephony switch and the computing device then communicate via packets. Applicant has amended the independent claims to clarify that the packet switched network is distinct from the PSTN. Support for this amendment can be seen in Figure 1 where the PSTN and the packet network are shown as being separate entities.

Claims 1-17 were rejected under 35 U.S.C. § 103 as being unpatentable over Herbert in view of Gardner. Applicant respectfully traverses. For the Patent Office to establish *prima facie* obviousness, the Patent Office must show where in the combination of references each and every claim element is located. MPEP § 2143.03. Because the Patent Office admits that the combination does not show certain of the claim elements, the combination does not establish *prima facie* obviousness, and the claims are allowable over the rejection of record.


The Patent Office, in its analysis of claims 1, 4-7, and 15-17, admits that "Herbert in view of Gardner does not disclose each switch having a packet-switched address." Further, the Patent Office admits that "Herbert in view of Gardner does not disclose a first message identifier type and a second message identifier type as claimed." The inquiry about whether the Patent Office has established *prima facie* obviousness should end with these admissions. If the combination does not show all the claim elements, the Patent Office has not established *prima facie* obviousness. However, the Patent Office attempts to cure the deficiencies of the combination by alleging that it would have been obvious to have a network address. Applicant respectfully disagrees and maintains that the admitted absence of these two elements is actually a result of a

deeper deficiency of the combination. Specifically, the combination does not show the claimed packet-switched network, and as such, cannot show the remainder of the claim elements, nor perform the function of the claimed invention. The Patent Office alleges that Gardner discloses transmitting signaling information within a telephone network via signaling packets. To clarify that the packet-switched network of the present invention is distinct from the signaling packet network, Applicant has amended the claims. It is now readily apparent that the claim is intended to cover a packet-switched network distinct from the signaling network within the PSTN.

Claim 11, the remaining independent claim, is separately analyzed by the Patent Office, but the Patent Office makes similar admissions. Specifically, the Patent Office admits that "Herbert in view of Gardner does not disclose having a first and second connection simultaneously with the telephone switch . . . [and] does not disclose that the first and second connection carry information of differing priorities." As noted above, these admissions are fatal to the Patent Office establishing *prima facie* obviousness. While the claim clearly defines over the rejection of record on these admissions alone, Applicant has amended the claim in relevant part to show that the signaling network of the PSTN is not used to connect the switch to the computing device. As explained above, the combination of Herbert and Gardner do not teach or suggest using a separate packet-switched network for the communication, and the claims further define over the rejection of record.

Applicant requests reconsideration of the rejection in light of the amendments and arguments presented herein. It is readily apparent that the combination of references does not capture the spirit or the whole of the claimed invention. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

<p align="center">CERTIFICATE OF MAILING</p> <p>I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST-CLASS MAIL, IN AN ENVELOPE ADDRESSED TO: MAIL STOP NON-FEE AMENDMENT, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450, ON MAY 15, 2003.</p> <p><u>Kelly Farrow</u> Name of Depositor</p> <p><u>Kell</u> Signature</p> <p><u>5/15/03</u> Date of Signature</p>

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